

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JUNE 30, 2005

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN SENATE MAY 19, 2005

AMENDED IN SENATE MAY 10, 2005

AMENDED IN SENATE APRIL 27, 2005

AMENDED IN SENATE APRIL 12, 2005

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**SENATE BILL**

**No. 198**

**Introduced by Senator Lowenthal**

February 10, 2005

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An act to amend Section 7057 of, and to add Section 7026.11 to, the Business and Professions Code, and to amend Section 18080.5 of, to add Sections 18035.26 and 18871.1 to, to add Article 2.1 (commencing with Section 18615) to, and to repeal the heading of Article 2.5 of, Chapter 5 of Part 2.1 of Division 13 of, the Health and Safety Code, relating to manufactured homes, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 198, as amended, Lowenthal. Manufactured housing: installation.

(1) Existing law, the Mobilehomes-Manufactured Housing Act of 1980, sets forth conditions and requirements regarding the transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome.

This bill would set forth requirements applicable only to the sale of a new or used manufactured home or multiunit manufactured housing

or used mobilehome sold by a dealer and to be installed by the buyer on a foundation system, as specified. The bill would deem the sale of these homes to be complete at the close of escrow and would deem escrow to be closed when a prescribed document containing a declaration of delivery sale and specifying the expiration date of the manufacturer's warranty is executed, all funds in the escrow accounts are disbursed, and the buyer takes delivery of the home.

(2) Existing law deems a transaction by or through a dealer for the sale of a new or used manufactured home or multiunit manufactured housing or used mobilehome to be installed by the buyer on a foundation system pursuant to specified provisions to be completed and consummated when the installation is completed and a certificate of occupancy is issued.

This bill would instead deem this sale to be completed and consummated within 10 calendar days of the close of escrow.

(3) Existing law, the Mobilehome Parks Act, authorizes factory-built housing bearing a designated insignia, manufactured homes as defined, mobilehomes as defined, and multiunit manufactured housing as defined, to be affixed to a foundation system within a mobilehome park if the installation conforms to certain conditions. Existing law requires a contractor engaged to install a manufactured home or mobilehome to obtain a permit from the enforcement agency each time a manufactured home or mobilehome is to be located, installed, or reinstalled on any site for the purpose of human habitation or occupancy as a dwelling and requires the contractor to display a valid contractor's license when applying for the permit.

Existing law requires the contractor to complete the installation in accordance with the regulations adopted by the department within the time limitations that are established by the regulations. Existing law prohibits the requirements for the installation of a manufactured home or mobilehome from exceeding specified statutory requirements. Existing law makes it a misdemeanor to willfully violate the Mobilehome Parks Act.

This bill would authorize the Department of Housing and Community Development to adopt guidelines, as specified, and would require the department to implement a program complying with federal requirements related to standards for installing or altering the installation of manufactured homes, mobilehomes, and multiunit manufactured housing and the training and certification of installers of

manufactured homes, mobilehomes, and multiunit manufactured housing. The bill, by requiring the department to charge fees commensurate with its costs of implementing these provisions, which are deposited into the Mobilehome-Manufactured Home Revolving Fund, a continuously appropriated fund, would thereby make an appropriation. The bill would also establish minimum standards of expertise relating to installing or altering the installation of manufactured homes, mobilehomes, and multiunit manufactured housing, and would require the department to develop an examination necessary to assess that expertise.

The bill would prohibit a person holding a specified contractor's license from acting as an installer or altering the installation of a mobilehome, manufactured home, or multiunit manufactured housing unless that person is certified to do so, as specified. The bill would authorize the issuance of a citation and civil penalty against an installer or person required to be certified for violations of provisions relating to installing or altering the installation of manufactured homes, multiunit manufactured housing, and mobilehomes. Because a willful violation of these provisions would be a misdemeanor, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7026.11 is added to the Business and  
2 Professions Code, to read:  
3 7026.11. Except as otherwise provided under subdivision (d)  
4 of Section 7057, a person who is licensed or subject to licensure  
5 under this chapter shall not submit a bid or enter into a contract  
6 for the installation of a manufactured home, mobilehome, or  
7 multiunit manufactured housing or the alteration of its  
8 installation as provided in Sections 18551 and 18613 of the  
9 Health and Safety Code unless the person holds the "C-47"

1 General Manufactured Housing specialty license classification  
2 and current certification issued by the Department of Housing  
3 and Community Development as required under Section 18615  
4 of the Health and Safety Code.

5 SEC. 2. Section 7057 of the Business and Professions Code is  
6 amended to read:

7 7057. (a) Except as provided in this section, a general  
8 building contractor is a contractor whose principal contracting  
9 business is in connection with any structure built, being built, or  
10 to be built, for the support, shelter, and enclosure of persons,  
11 animals, chattels, or movable property of any kind, requiring in  
12 its construction the use of at least two unrelated building trades  
13 or crafts, or to do or superintend the whole or any part thereof.

14 This does not include anyone who merely furnishes materials  
15 or supplies under Section 7045 without fabricating them into, or  
16 consuming them in the performance of the work of the general  
17 building contractor.

18 (b) A general building contractor may take a prime contract or  
19 a subcontract for a framing or carpentry project. However, a  
20 general building contractor shall not take a prime contract for any  
21 project involving trades other than framing or carpentry unless  
22 the prime contract requires at least two unrelated building trades  
23 or crafts other than framing or carpentry, or unless the general  
24 building contractor holds the appropriate license classification or  
25 subcontracts with an appropriately licensed contractor to perform  
26 the work. A general building contractor shall not take a  
27 subcontract involving trades other than framing or carpentry,  
28 unless the subcontract requires at least two unrelated trades or  
29 crafts other than framing or carpentry, or unless the general  
30 building contractor holds the appropriate license classification.  
31 The general building contractor may not count framing or  
32 carpentry in calculating the two unrelated trades necessary in  
33 order for the general building contractor to be able to take a  
34 prime contract or subcontract for a project involving other trades.

35 (c) No general building contractor shall contract for any  
36 project that includes the “C-16” Fire Protection classification as  
37 provided for in Section 7026.12 or the “C-57” Well Drilling  
38 classification as provided for in Section 13750.5 of the Water  
39 Code, unless the general building contractor holds the

1 appropriate license classification, or subcontracts with the  
2 appropriately licensed contractor.

3 (d) A general building contractor shall not submit a bid or  
4 enter into a contract for the installation of a manufactured home,  
5 mobilehome, or multiunit manufactured housing or the alteration  
6 of its installation as provided in Sections 18551 and 18613 of the  
7 Health and Safety Code unless one of the following conditions is  
8 applicable:

9 (1) The general building contractor holds the “C-47” General  
10 Manufactured Housing specialty license classification and  
11 current certification issued by the Department of Housing and  
12 Community Development as required under Section 18615 of the  
13 Health and Safety Code.

14 (2) The general building contractor subcontracts the  
15 installation work to an appropriately licensed and certified  
16 contractor.

17 SEC. 3. Section 18035.26 is added to the Health and Safety  
18 Code, to read:

19 18035.26. (a) Notwithstanding any other provision of law, the  
20 requirements of this section apply only to the sale of a new or  
21 used manufactured home or multiunit manufactured housing or  
22 used mobilehome sold by a dealer and to be installed by the  
23 buyer on a foundation system pursuant to subdivision (a) of  
24 Section 18551.

25 (b) The sale shall be deemed complete at the close of escrow.  
26 Escrow shall be deemed closed when all of the following have  
27 been completed:

28 (1) The following document is executed:

29 Declaration of Delivery Sale

30 The undersigned purchaser hereby declares that he/she is  
31 agreeing to a delivery sale wherein he/she intends to actually and  
32 physically install the subject home described below, or accept  
33 responsibility for engaging the services of a licensed contractor  
34 to perform that installation. Additionally, the purchaser hereby  
35 declares that he/she understands that most manufacturers’  
36 warranties do not cover defects caused by improper site  
37 preparation or installation. The purchaser takes full responsibility  
38 for the proper storage, including blocking of the home and  
39 protection from the elements, prior to the completion of the  
40 installation.

1 It is strongly recommended that, before entering into this  
2 agreement, the purchaser has ensured that the home described  
3 below will be installed pursuant to subdivision (a) of Section  
4 18551 of the Health and Safety Code (see reverse side) and the  
5 manufacture's installation instructions. Additionally, the  
6 purchaser should make certain that he/she can meet all permit  
7 and fee requirements, including school development fees, most  
8 of which may be financed, for the installation of the subject  
9 home.

10 Warranty Expiration

11 Notwithstanding Section 1797 of the Civil Code, in order to  
12 provide reasonable time for the installation of your home, the  
13 manufacturer's warranty, when applicable, will expire one year  
14 after *either* the issuance of a certificate of occupancy or 120 days  
15 from the close of escrow, whichever occurs first.

16 Name of Escrow Company: \_\_\_\_\_; Escrow  
17 Number: \_\_\_\_\_

18 Manufacturer's Name: \_\_\_\_\_; Serial  
19 Number: \_\_\_\_\_

20 Dealer's Name: \_\_\_\_\_; Address where  
21 purchaser will accept delivery: \_\_\_\_\_; Address  
22 where purchaser intends to install home:  
23 \_\_\_\_\_

24 (NOTE: An original copy of this document must be deposited  
25 with the above named escrow agent as a condition precedent to  
26 the preparation of escrow instructions. Upon close of escrow, the  
27 escrow agent shall submit the original copy of this document to  
28 the department to report this sale; a copy of the original  
29 document shall be retained by the escrow agent. Additionally, a  
30 copy of the original document shall be sent to the manufacturer.)

31 WARNING: This is an important document. Do not sign  
32 unless you have read and understood the above declaration.

33 Purchaser's Printed Name: \_\_\_\_\_ Purchaser's Signature: \_\_\_\_\_  
34 Date: \_\_\_\_\_

35 Purchaser's Printed Name: \_\_\_\_\_ Purchaser's Signature: \_\_\_\_\_  
36 Date: \_\_\_\_\_

37 (Section 18551 of the Health and Safety Code shall be  
38 reprinted on the reverse side of this document.)

1 (2) All funds in the escrow account, other than escrow fees,  
2 amounts for accessories not yet delivered, and any other amounts  
3 mutually agreed to by the dealer and buyer are disbursed.

4 (3) The buyer takes delivery of the manufactured home,  
5 mobilehome, or multiunit manufactured housing. For the purpose  
6 of this section, taking delivery occurs upon the transfer of the  
7 home to the buyer at a location mutually agreed upon and as  
8 specified in the purchase agreement and the escrow instructions.

9 (c) The warranty period pursuant to Chapter 3 (commencing  
10 with Section 1797) of the Civil Code shall expire one year after  
11 either 120 days after the close of escrow or upon the issuance of  
12 the certificate of occupancy, whichever occurs first.

13 (d) All sales subject to this section shall meet the escrow  
14 requirements of Section 18035.2 and the reporting requirements  
15 of Section 18080.5. An escrow agent shall not create an escrow  
16 instruction wherein a purchaser accepts responsibility for the  
17 installation of a manufactured home unless and until the escrow  
18 agent is in receipt of the declaration specified in subdivision (a).  
19 An escrow instruction created before the receipt of the  
20 declaration is null and void and unenforceable.

21 (e) The report of sale and any related required documents shall  
22 be filed with the department within 10 calendar days of the close  
23 of escrow. The department shall designate its record as “pending  
24 installation” for the unit until the certificate of occupancy is  
25 issued and the recorded HCD 433A and applicable fees are  
26 received from the enforcement agency. Only at this time shall the  
27 record be amended to designate the foundation type to be a  
28 permanent foundation pursuant to subdivision (a) of Section  
29 18551 and the department’s record cancelled.

30 SEC. 4. Section 18080.5 of the Health and Safety Code is  
31 amended to read:

32 18080.5. (a) A numbered report of sale, lease, or rental form  
33 issued by the department shall be submitted each time the  
34 following transactions occur by or through a dealer:

35 (1) Whenever a manufactured home, mobilehome, or  
36 commercial coach previously registered pursuant to this part is  
37 sold, leased with an option to buy, or otherwise transferred.

38 (2) Whenever a manufactured home, mobilehome, or  
39 commercial coach not previously registered in this state is sold,

1 rented, leased, leased with an option to buy, or otherwise  
2 transferred.

3 (b) The numbered report of sale, lease, or rental forms shall be  
4 used and distributed in accordance with the following terms and  
5 conditions:

6 (1) A copy of the form shall be delivered to the purchaser.

7 (2) All fees and penalties due for the transaction that were  
8 required to be reported with the report of sale, lease, or rental  
9 form shall be paid to the department within 10 calendar days  
10 from the date the transaction is completed, as specified by  
11 subdivision (e). Penalties due for noncompliance with this  
12 paragraph shall be paid by the dealer. The dealer shall not charge  
13 the consumer for those penalties.

14 (3) Notice of the registration or transfer of a manufactured  
15 home or mobilehome shall be reported pursuant to subdivision  
16 (d).

17 (4) The original report of sale, lease, or rental form, together  
18 with all required documents to report the transaction or make  
19 application to register or transfer a manufactured home,  
20 mobilehome, or commercial coach, shall be forwarded to the  
21 department. Any application shall be submitted within 10  
22 calendar days from the date the transaction was required to be  
23 reported, as defined by subdivision (e).

24 (c) A manufactured home, mobilehome, or commercial coach  
25 displaying a copy of the report of sale, lease, or rental may be  
26 occupied without registration decals or registration card until the  
27 registration decals and registration card are received by the  
28 purchaser.

29 (d) In addition to the other requirements of this section, every  
30 dealer upon transferring by sale, lease, or otherwise any  
31 manufactured home or mobilehome shall, not later than the 10th  
32 calendar day thereafter, not counting the date of sale, give written  
33 notice of the transfer to the assessor of the county where the  
34 manufactured home or mobilehome is to be installed. The written  
35 notice shall be upon forms provided by the department  
36 containing any information that the department may require, after  
37 consultation with the assessors. Filing of a copy of the notice  
38 with the assessor in accordance with this section shall be in lieu  
39 of filing a change of ownership statement pursuant to Sections  
40 480 and 482 of the Revenue and Taxation Code.



1 (e) Except for transactions subject to Section 18035.26, for  
2 purposes of this section, a transaction by or through a dealer shall  
3 be deemed completed and consummated and any fees and the  
4 required report of sale, lease, or rental is due when any of the  
5 following occurs:

6 (1) The purchaser of any commercial coach has signed a  
7 purchase contract or security agreement or paid any purchase  
8 price, the lessee of a new commercial coach has signed a lease  
9 agreement or lease with an option to buy or paid any purchase  
10 price, or the lessee of a used commercial coach has either signed  
11 a lease with an option to buy or paid any purchase price, and the  
12 purchaser or lessee has taken physical possession or delivery of  
13 the commercial coach.

14 (2) For sales subject to Section 18035, when all the amounts  
15 other than escrow fees and amounts for uninstalled or  
16 undelivered accessories are disbursed from the escrow account.

17 (3) For sales subject to Section 18035.2, within 10 days of the  
18 close of escrow.

19 SEC. 5. Article 2.1 (commencing with Section 18615) is  
20 added to Chapter 5 of Part 2.1 of Division 13 of the Health and  
21 Safety Code, to read:

22  
23 Article 2.1. Installation of Manufactured Homes  
24

25 18615. (a) The department shall implement a program  
26 complying with the requirements of Section 5404 of Title 42 of  
27 the United States Code related to standards for installing or  
28 altering the installing of manufactured homes, mobilehomes, and  
29 multiunit manufactured housing and the training and certification  
30 of installers of manufactured homes, mobilehomes, and multiunit  
31 manufactured housing.

32 (b) For the purposes of the certification required under this  
33 article, the department shall establish minimum standards of  
34 expertise related to the installing or altering the installation of  
35 manufactured homes, mobilehomes, and multiunit manufactured  
36 housing for certification of installers and shall provide, in a  
37 technical and practical study guide format, information to assist  
38 the installer to achieve certification. A denial of recertification is  
39 subject to appeal to the director of the department or the  
40 director's representative.

1 (c) The department shall develop the examinations necessary  
2 to assess the expertise of persons seeking certification as an  
3 installer of manufactured homes, mobilehomes, and multiunit  
4 manufactured housing and shall establish a testing process to  
5 administer those examinations.

6 (d) When an applicant passes the examination administered  
7 pursuant to subdivision (c), the department shall provide proof of  
8 certification to the successful applicant.

9 (e) The department shall charge fees commensurate with its  
10 costs of implementing this section to applicants for installer  
11 certification or renewal, training, and testing.

12 Notwithstanding Section 13340 of the Government Code, the  
13 fees collected shall be placed in the Mobilehome-Manufactured  
14 Home Revolving Fund established by Section 18016.5, and are  
15 continuously appropriated to the department for expenditure in  
16 carrying out the provisions of this part.

17 (f) The department may adopt guidelines to implement the  
18 training, testing, certification, and enforcement provisions for  
19 installers under this section. Until July 1, 2009, these guidelines  
20 shall not be subject to the requirements of the Administrative  
21 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
22 Part 1 of Title 2 of the Government Code).

23 18615.5. (a) The director of the department or his or her  
24 designee or an employee authorized by a local enforcement  
25 agency that has assumed jurisdiction pursuant to Sections 18300  
26 and 18865, may issue a citation that assesses a civil penalty  
27 against an installer or person required to be certified pursuant to  
28 Section 18616 for any violation of Part 2 (commencing with  
29 Section 18000), this part, or Part 2.3 (commencing with Section  
30 18860), or regulations adopted pursuant to those provisions that  
31 relate to installing or altering the installation of manufactured  
32 homes, mobilehomes, and multiunit manufactured housing.

33 (b) Each citation and related civil penalty assessment shall be  
34 issued no later than six months after issuance of the notice to  
35 correct that is the basis of the citation. The penalties provided for  
36 in this section are in addition to, and shall be consistent with, the  
37 remedies and penalties specified in Section 18700 or Chapter 9  
38 (commencing with Section 7000) of Division 3 of the Business  
39 and Professions Code, Part 2 (commencing with Section 18000),

1 this part, or Part 2.3 (commencing with Section 18860), or  
2 regulations adopted pursuant to those provisions.

3 (c) The amount of any civil penalty assessed pursuant to  
4 subdivision (a) shall be in the amounts specified in Section  
5 18021.7. The civil penalties assessed pursuant to this section  
6 shall be payable to the enforcement agency and shall be remitted  
7 within 45 days of the issuance of the citation.

8 (d) A person or entity that is served a citation pursuant to this  
9 section may petition the director or his or her designee, or the  
10 authorized representative or the local enforcement agency, where  
11 applicable, for a hearing. The petition shall be in writing and  
12 shall be received by the department or the local enforcement  
13 agency within 30 days of the date of issuance of the citation.

14 (e) Upon receipt of a timely petition, the enforcement agency  
15 shall suspend enforcement of the citation, set a time and place for  
16 a hearing, and give the recipient of the citation written notice of  
17 the hearing. The hearing shall commence no later than 30 days  
18 following receipt of the petition or at another time scheduled by  
19 the enforcement agency pursuant to a request by the petitioner or  
20 the enforcement agency if the enforcement agency determines  
21 that good and sufficient cause exists. If the petitioner fails to  
22 appear at the time and place scheduled for the hearing, the  
23 enforcement agency may notify the petitioner in writing that the  
24 petition is dismissed and that compliance with the terms of the  
25 citation shall occur within 10 days after receipt of the  
26 notification.

27 (f) The enforcement agency shall notify the petitioner in  
28 writing of its decision and the reasons for the decision within 30  
29 days following conclusion of the hearing held pursuant to this  
30 section. If the enforcement agency upholds the citation, in whole  
31 or in part, the petitioner shall comply with the citation in  
32 accordance with the decision within 30 days after the decision is  
33 mailed by the enforcement agency.

34 18616. (a) Notwithstanding any other provision of law, a  
35 person who is licensed under Chapter 9 (commencing with  
36 Section 7000) of Division 3 of the Business and Professions  
37 Code shall not install or alter the installation of a manufactured  
38 home, mobilehome, or multiunit manufactured home unless that  
39 person holds a current certification as required under this article  
40 and also holds the General Manufactured Housing (C-47)

1 classification as defined under Section 832.47 of Division 8, Title  
2 16 of the California Code of Regulations.

3 (b) An application by a person for a permit to install, alter the  
4 installation of, or reinstall a manufactured home, mobilehome, or  
5 multiunit manufactured housing pursuant to this part or Part 2.3  
6 (commencing with Section 18860) shall be accompanied by the  
7 appropriate license issued by the Contractors State Licensing  
8 Board and, if applicable, the permit issued pursuant to Section  
9 18551.1. This subdivision does not apply to an applicant who  
10 owns the manufactured or mobilehome to be installed and  
11 intends to reside in it.

12 (c) This section shall become operative on July 1, 2006.

13 SEC. 6. The heading of Article 2.5 of Chapter 5 of Part 2.1 of  
14 Division 13 of the Health and Safety Code, immediately  
15 following Section 18614, is repealed.

16 SEC. 7. Section 18871.1 is added to the Health and Safety  
17 Code, to read:

18 18871.1. If a manufactured home or mobilehome is installed  
19 in a park, or its installation is altered, the installation or alteration  
20 shall comply with the applicable provisions of Part 2.1  
21 (commencing with Section 18200) and the regulations adopted  
22 pursuant to those provisions.

23 SEC. 8. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the  
28 penalty for a crime or infraction, within the meaning of Section  
29 17556 of the Government Code, or changes the definition of a  
30 crime within the meaning of Section 6 of Article XIII B of the  
31 California Constitution.